



# Memorandum

**TO:** COMMUNITY & ECONOMIC  
DEVELOPMENT COMMITTEE

**FROM:** Harry Freitas  
Kim Walesh  
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**SUBJECT:** SEE BELOW

**DATE:** February 12, 2016

Approved

*D. D. Syl*

Date

*2/12/16*

**SUBJECT: STATUS REPORT ON THE UPDATE TO THE NORTH SAN JOSE AREA  
DEVELOPMENT POLICY**

## RECOMMENDATION

Accept staff's status report related to updating the North San Jose Area Development Policy and Environmental Impact Report and forward to the full City Council for approval at the March 8 City Council meeting.

## BACKGROUND

The North San Jose (NSJ) area plays a vital role in the achievement of San José's economic goals. In 2005, the City adopted the revised North San Jose Area Development Policy (Policy) to modify the policy framework to allow and guide mixed-use development in one of its most important employment centers. The Policy created development capacity in the area to accommodate 26.7 million square feet of new office/R&D development, 32,000 residential units, 2.7 million square feet of retail development, and 1,000 hotel rooms.

The transportation impact analysis prepared for this large intensified development indicated a substantial amount of roadway improvements was necessary to mitigate the impacts of increased traffic generated by the new development at full buildout. The City adopted a standardized Traffic Impact Fee (TIF) in order to provide certainty to the development community regarding the infrastructure requirements associated with this level of intensification, and to ensure adequate funding for the roadway improvements included in the Policy. The TIF was based on a nexus study. The development and improvements were divided into four equal phases with prerequisite "triggers" to be met prior to opening up a subsequent phase.

The Phase 1 industrial development levels have not been achieved, while the Phase 1 residential development has been fully allocated. There has been a general lack of new industrial

development in the Policy area even with the recent economic recovery. The City has approved a reduced TIF incentive program as one way to encourage new industrial projects.

The City has recognized the need for an evaluation and update of the Policy based on 10 years of implementation experience. At its November 18, 2014 meeting, the City Council discussed the merits of permanently lowering the Traffic Impact Fee. Several Council members noted that the TIF has been a deterrent to investors wanting to build in North San Jose. Some Council members were of the opinion that by lowering the TIF, North San Jose would become more competitive with the rest of Silicon Valley. However, any consideration of modifying the TIF must be balanced with the City's ability to provide the transportation improvements required for the new development. A proposed modification requires a reevaluation of the required improvements given ten years of traffic experience, the location and type of development in the last ten years, and revised projections of transportation needs to serve the new development.

On June 9, 2015, the City Council directed staff to proceed with Policy modification and update of the Environmental Impact Report that would:

1. Align the Policy with the City's General Plan Transportation Goals to maximize the use of multi-modal opportunities (such as light rail, BART, and bicycling) to reduce impacts.
2. Update the Policy and Envision 2040 General Plan to identify appropriate areas for residential, industrial, commercial or mixed-use opportunities in North San Jose to create a quality community.
3. Restructure the environmental impact mitigation measures in the near-term to reflect the impacts of early development phases to the extent possible.
4. Redefine funding obligations and/or restructuring of the TIF to reflect regional funding opportunities.
5. Maintain the total (full buildout) development capacity of the current Policy to ensure the longevity of North San Jose.

The Council further noted an expectation to complete the necessary update within a timely manner. Staff indicated that the technical analysis, Policy update and EIR would be completed by early 2017 so that Council would have the information it needs to determine whether a modification of the TIF is possible.

## **ANALYSIS**

North San José is the City's largest employment district and is designated in the General Plan as an Employment Center because of its proximity to regional transportation infrastructure. It is home to many important leading technology companies and a key growth area for the City. The Envision General Plan augmented the North San José Area Development Policy, providing growth capacity for up to 97,000 new jobs and 32,000 new housing units to further its development as a regional employment center.

The City's North San José Area Development Policy continues to be the key implementation document for this area. The Policy includes a phasing plan and a Traffic Impact Fee which link

job and housing growth, and requires jobs and housing in order to fund transportation improvements. The Envision 2040 General Plan considers the new residential neighborhoods addressed in the North San José Area Development Policy, North San José Urban Design Guidelines and North San José Neighborhoods Plan as already planned Urban Villages. Those completed policy documents will serve as an Urban Village Plan for each neighborhood area.

### **North San José Area Development Policy Context**

The 2005 update to the North San José Area Development Policy (Policy) established a plan for the expansion of the City's key North San José employment area, allowing for the addition of 26.7 million square feet of new industrial development, 32,000 housing units and 1.7 million square feet of supporting commercial uses. Consistent with San José's Smart Growth principles, this growth capacity is focused primarily into higher density development at transit-oriented sites.

The plan includes:

- a new grid street system to create more walkable, urban blocks within the central part of North San José
- new urban, mixed-use housing, parks and services to build neighborhoods in close proximity to employment growth
- the City's first TIF Fee to partially fund \$570 million in transportation improvements, and
- a development-phasing plan that links job and housing growth to the construction of those improvements.

The North San José Neighborhoods Plan and Design Guidelines support the Policy in establishing an urban vision for North San José.

A fundamental component of the current Policy is allowing the conversion of 285 acres of industrial land to accommodate new residential development. The additional residential units provide the transportation benefit of internalizing traffic trips within North San José. This traffic internalization allows the development of more new industrial development than the 6.7 million sq. ft. envisioned by the previous version of the Policy.

The Final EIR certified in 2005 provided both program level and project level environmental clearance based on information then known for the complete build out of development planned for the Policy area. Providing project level environmental clearance is intended to facilitate and streamline development in the Policy area. The land use entitlement process is streamlined by avoiding the need for each project to prepare its own traffic impact analysis and EIR. Instead, individual projects can typically tier from the 2005 North San Jose EIR and complete environmental review through an addendum to that EIR.

The intensified level of development required significant traffic improvements. To ensure that the development of jobs, housing and transportation improvements occurred in a balanced and timely manner, the total amount of development allowed by the Policy was divided evenly into four phases. In order to provide certainty to the development community regarding the

infrastructure requirements associated with this level of intensification, and to adequately fund roadway improvements to mitigate the impacts of increased traffic generated by new development under the policy at full buildout, the City adopted a standardized TIF for new residential, industrial, commercial and hotel fees. (Municipal Code Chapter 14.29).

### **Lessons Learned – Issues Identified**

After 10 years of implementation experience, there are lessons learned that can inform updating the Policy. Some of the existing conditions may have changed. Some of the major issues and unintended consequences identified to date by staff are listed below. These will be explained in more detail as part of the staff presentation at the Committee meeting.

1. The application of the Transit/Employment Residential Overlay on a parcel-by-parcel basis in-lieu of establishing more traditional land use designations has led to a disjointed and disconnected community. The lack of creating a true neighborhood affects the quality of life for all users. It severely undermines the ability to deliver amenities that allow residential and commercial development to remain fiscally viable.
2. The lack of focused development in key nodes throughout the Policy area has resulted in a lack of cohesive retail and amenity development that creates a destination for employees and residents within North San Jose.
3. The density of Phase 1 residential projects is not yielding the necessary number of units per acre of industrial land converted. Because there is a limit on the number of acres allowed for conversion to residential use, the density of later residential projects will need to be substantially higher than expected in order to reach the desired number of dwelling units.
4. The amount of infrastructure ‘required’ to support the planned level of development should be reevaluated. Because it is one large mitigation program, there is a nexus requirement that each development pays its “fair share” regardless of timing. This results in the same TIF being applied equally across all phases, subject to increases in the consumer price index. The TIF is higher than that in neighboring jurisdictions. The TIF has likely resulted in creating disincentives for new industrial development.
5. The number of affordable residential units the City desired has not been achieved. This limits the City’s ability to provide housing for all socio-economic groups that might work in NSJ.
6. The overall entitlement process has not been streamlined to coincide with environmental review streamlining. Relying on Planned Development rezonings for intended long-term activity (i.e., residential), limits development levels and land use mix in the near-term (e.g., rezoning only allowing residential while commercial interest is high in the interim) (e.g., Hyundai project). The Policy was intended to allow the flexibility of uses to occur organically within an urban setting. The lack of streamlining does not achieve this goal.

7. Policy modifications have occurred over the past two years that denote the need for a better understanding of the market conditions in the next five to ten years. The lack of flexibility to allow for project deviations from strict interpretation within the Policy while objectives of the Policy were still being met (e.g., low intensity uses and hotel room cap) has resulted in multiple amendments. The Policy represents a long-term buildout plan for NSJ, requiring modifications to reflect changing conditions.
8. There is a need for more “innovative planning” of public facilities (e.g., parks) from a suburban to urban context to maximize developable land for the highest and best use. Parks provide community and environmental benefits; however, the City needs to evaluate the creation of a system that serves a variety of needs and users in a compact and cohesive manner.
9. The Policy assumes no net loss in the total amount of industrial development. The credit system for industrial land conversions has effectively resulted in creating the need for the development of 10 million square feet of industrial development in Phase 1 instead of the 7 million square feet anticipated.
10. A defined implementation plan and regular reporting to monitor growth is lacking to ensure major milestones and the overall vision are being met.

## **Work Plan**

The major tasks of the work plan and immediate next steps are summarized below. The Council direction provided in June 2015 has been incorporated into the on-going work program. To date the work efforts have focused primarily on evaluating appropriate areas for residential, industrial, commercial or mixed-use opportunities to create a quality community. Recent work has focused on documentation and analysis of the existing conditions to inform land use scenarios. The results of this effort are important for clearly understanding and defining the problems encountered with implementing the Policy.

## **Land Use**

Staff is evaluating the land use assumptions in the current Policy to determine how the Policy is working based on the experience of the past 10 years, and current and projected conditions. It is uncertain at this time if this effort would result in the potential shifting of land use designations in order to create a more cohesive community. Staff recognizes that any proposed land use changes might be controversial, particularly for current property owners. Staff is not contemplating an increase in the number of industrial acres allowed for residential conversion. However, increasing minimum residential densities may be considered if necessary to get the desired number of units.

A fundamental focus of the land use analysis is to gain a detailed understanding of how and why the pattern of recent new development in NSJ is different from that originally planned. The determination of the appropriate land use assumptions is a critical path to advance other work products and maintain the schedule. The land use data is essential for accurate traffic modeling as a fundamental input along with transportation network assumptions. Staff is currently conducting an in-depth land use data compilation and assessment of existing conditions for every

property in NSJ. This data will be used to evaluate the future development assumptions of the existing Policy and recommend appropriate modifications. The land use data analysis will be completed in March 2016.

A summary of the land use data for the existing conditions will be included in the staff presentation at the February 22, 2016, Committee meeting. Staff is developing answers to the following key questions related to the land use assumptions of the existing Policy. The answers will inform staff recommendations on land use changes, and accordingly the transportation improvements required.

1. How much and which land should be preserved for traditional industrial functions?
2. How much industrial development is realistic to assume by 2025 and 2035?
3. How much of the remaining acreage allocated to residential should be retained, and at what density, type of design and construction?
4. What land use adjustments, if any, should be made to the North 1<sup>st</sup> Street Transit Employment Center Core to reflect current and future realities?
5. Are there specific key nodes where higher intensity office, enhanced retail amenities and residential units should be focused as a strategy to create great, active places and better connect the community in North San José? (Examples are at 1<sup>st</sup> and Montague or 1<sup>st</sup> and Trimble)

### Transportation

There will be two major steps to the new transportation analysis. The first step will be an existing conditions analysis, which is currently in early stages. Second will be an evaluation of the improvements required based on any new policy direction. Existing baseline conditions for North San José are being updated to 2015. Updated traffic counts were completed by the traffic consultants in late 2015 to document the existing condition.

The existing transportation network and other background conditions are also being updated in the new model in order to undertake a preliminary analysis that will inform staff recommendations for policy considerations. The transportation modeling will build off of the new traffic model updates prepared for the Downtown Strategy update; however, the effort is much larger and more complicated for North San Jose. The current schedule anticipates traffic modeling to begin in earnest in April 2016 and be completed in approximately three months.

### **Settlement Agreement**

Following the adoption of the Policy and certification of the EIR in 2005, the City faced legal challenge from the Cities of Santa Clara and Milpitas and the County of Santa Clara. All parties agreed to a settlement that required specified transportation improvement to be constructed. These obligations are in addition to the mitigation package adopted within the Policy and funded in part through developer fees. If any changes to the Policy are contemplated, it is important to note the City has outstanding obligations under the Settlement Agreement unless they are renegotiated.

1. Fund up to an amount not to exceed \$11M to the County for the construction of the Montague widening project from E. Capitol Avenue easterly to Park Victoria Dr., including the I-680 interchange modifications. (Status: Outstanding obligation of \$1M to be paid in 2016)
2. Fund and complete changes to Montague Expressway, including:
  - Widening to 8 lanes between Lick Mill Blvd. and Trade Zone Blvd. (Status: Complete, except between Lick Mill Blvd. and N. First St. and Oakland Rd. and Trade Zone Blvd.)
  - Interchange modifications at I-880 (Status: Outstanding)
  - The Trimble flyover (Status: Outstanding)
  - The McCarthy-O'Toole interchange (Status: Outstanding)
3. Fund \$1.5M to the County for the grade separation of Montague/Mission/US-101 Interchange. (Status: Outstanding)

## **Outreach**

Staff will develop a recommended outreach program prior to the next project update. Staff recognizes the need for a thoughtful, timely and appropriate public outreach program once options and recommendations are more fully formulated and made publicly available. There will be a public scoping meeting for the EIR. Other outreach efforts will in part be determined by the type and extent of proposed changes to the Policy, including any proposed land use or transportation modifications. For the sake of efficiency, existing venues for engaging stakeholders should be utilized. The original NSJ Task Force should be reconvened for at least one timely meeting. However, many of the former members are no longer available. If reconvened, the Task Force should be augmented to engage all of the various current stakeholders, including new residents and commercial property owners.

## **Schedule**

Public hearings on the NSJADP amendments and EIR are currently scheduled to begin in April 2017. The Draft EIR is expected to begin public circulation for review and comment in December 2016. The EIR project description will include the pertinent information to address the five key Council directives outlined on May 18, 2015. A Notice of EIR Preparation will be circulated once more project specific details have been finalized. Public scoping meetings are anticipated to occur in the summer 2016.

## **COORDINATION**

Work as described in this memorandum has been coordinated with the Department of Public Works and the City Attorney's Office.

**NEXT STEPS**

Staff will continue with land use planning and traffic model development for preparation of the Draft EIR based on discussion at the February 22, 2016, Community and Economic Development Committee meeting.

/s/

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